

IN THE DISTRICT COURT
OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

DONNA DORSEY DAVIS,
as an individual and derivatively upon
behalf of I-65 PROPERTIES, INC.,

PLAINTIFF,

VS.

RICHARD M. DORSEY,
as an individual and CD&O, LLC
as a necessary party.

DEFENDANTS.

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Civil Action No.
2:06cv766-MHT

DEFENDANT'S FIFTH MOTION IN LIMINE

COMES NOW the Defendant, **Richard M. Dorsey**, and hereby moves the Court to prohibit the Plaintiff, her attorney, or any witnesses from introducing by way of testimony or documentary evidence, information about the following subject:

Any evidence relating to or any opinion of the involvement of Donna Dorsey Davis in business decisions concerning the interest rate of the Promissory Note. This allegation has been dismissed by the Court by way of summary judgment.

To allow such evidence would only serve to prejudice the Defendants. It would also cause a mini trial on claims not advanced by the Plaintiff and which are immaterial and irrelevant to the Plaintiff's claims, or which have been dismissed by the Court. Any probative value of this evidence is substantially outweighed by its prejudicial effect. *Fed. R. Evid. 401, 402 and 403; Hapring v. Continental Oil Company, 28 F.2d 406, 410 (5th Circ. 1980)* (excluding evidence that unduly prolongs the trial).

RESPECTFULLY SUBMITTED,

By: //s// Clifford W. Cleveland
Attorney Code: CLE007

OF COUNSEL:

***The Law Office of
Cleveland & Colley, P. C.
Post Office Box 680689
Prattville, Alabama 36068
(334) 365-1500***

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of July, 2007, I electronically filed the foregoing with the Clerk of the Court using electronic filing system which will send notification of such filing to the following:

Lindsay B. Erwin, Esquire
3516 Vann Road, Suite 114
Birmingham, Alabama 35235

James E. Roberts, Esquire
4908 Cahaba River Road
Birmingham, Alabama 35243

/s/ Clifford W. Cleveland
OF COUNSEL